



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

The first systematic use of companion animals to assist individuals with disabilities was probably the training of dogs to assist people who are blind and visually impaired. The first guide dog in the United States was trained in 1929 at The Seeing Eye, Inc., in Morristown, New Jersey.<sup>1</sup> For many years The Seeing Eye was the only training school for guide dogs in this country, which is why it is not uncommon to hear guide dogs called "seeing eye dogs." Since the 1960's, the practice of using companion animals to increase the physical mobility and personal independence of individuals with disabilities has become more widespread.<sup>2</sup>

While guide dogs for the blind are the most commonly identified companions for people with disabilities, a number of other partnerships have been initiated. In 1975, Canine Companions for Independence (CCI) pioneered the concept of the service dog, a highly trained canine used to assist people who have disabilities with specialized services. CCI classifies specific types of service dogs by function. Service dogs perform tasks such as operating light switches, retrieving items, pulling wheelchairs, and opening doors. Hearing dogs assist people who are deaf or hearing impaired by alerting them to sounds such as telephone rings, crying infants, alarms, and people calling them by name. Some dogs are also cross-trained to provide a combination of assistance, such as guiding a visually impaired person while pulling his or her wheelchair.<sup>3</sup>

More recently, there has been an increase in the use of what is being termed, "psychiatric service dogs" that are trained to work or perform tasks for the benefit of an individual disabled by mental illness. Psychiatric service dogs are being used with individuals diagnosed with major depression, bipolar disorder, schizophrenia, panic disorder, social anxiety disorder, agoraphobia, obsessive compulsive disorder and post-traumatic stress disorder. They are also finding their way into homes with autistic children.

While dogs are by far the most common type of service animal, a wide variety of animals including cats, pot bellied pigs, capuchin monkeys, miniature horses, and birds are now being trained to assist individuals with disabilities. In 1979, Helping Hands trained and placed the first capuchin monkey as a helper and a companion to an individual who was paralyzed. From its inception, the organization's mission has been to provide assistance to people with the greatest needs: those individuals who have become quadriplegic as a result of an accident, injury, or disease.

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<sup>1</sup> The Seeing Eye, Inc. at [www.seeingeye.org](http://www.seeingeye.org).

<sup>2</sup> Kelly Henderson, No Dogs Allowed?, Federal Policies On Access For Service Animals. Animal Welfare Information Center Newsletter, Summer 1996, <http://www.nal.usda.gov/awic/newsletters/v7n2/7n2hende.htm> (Henderson). Under federal law, the term "disability" in regard to an individual means: "(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment." 42 U.S.C. s. 12102(2). See also 28 C.F.R. s. 36.104 (explaining the terms physical and mental impairment and defining the scope of the term disability).

<sup>3</sup> Canine Companions for Independence at [www.caninecompanions.org](http://www.caninecompanions.org).

Social animals, those used to address animal-assisted therapy goals, are trained and used in a wide variety of settings including hospitals, nursing facilities, schools, and other institutions. While several national organizations provide structured training and certification programs for these animals, most are not recognized as "service animals" under federal law.

## Federal and Florida Law

As the use of service animals became increasingly popular, individual states and the federal government enacted legislation providing access rights for these animals.<sup>4</sup> While all fifty States have now passed some legislation related to service animal access, nonetheless, when federal legislation provides greater protection for individuals with disabilities, it preempts local and state laws and regulations.<sup>5</sup> The major federal legislation addressing individuals with disabilities who have service animals includes:

- **The Air Carrier Access Act of 1986**<sup>6</sup> – specifically provides that air carriers must allow “dogs and other service animals used by individuals with a disability to accompany those persons on a flight.”<sup>7</sup> A service animal is defined as “any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.”<sup>8</sup> To determine whether an animal boarding a carrier is a service animal, the Act states that “carriers shall accept as evidence that an animal is a service animal” “written documentation,” the presence of “harnesses,” “markings,” or “tags,” “or the credible verbal assurances of the qualified individual with a disability using the animal.”<sup>9</sup>
- **The Fair Housing Amendments Act of 1988** – provides explicit rights to accommodations for persons with disabilities by prohibiting discrimination based on a person’s disability in the sale or rental of a dwelling.<sup>10</sup> In a specific example, Congress made it clear that reasonable accommodations should be made for service animals.<sup>11,12</sup>
- **The Americans with Disabilities Act of 1990**<sup>13</sup> – “prohibits discrimination of people with disabilities in public accommodations and services operated by public entities.”<sup>14</sup> Accordingly, a public accommodation is generally required to “modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.”<sup>15</sup> However, a public accommodation is not required “to supervise or care for a service animal.”<sup>16</sup>

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<sup>4</sup> See Henderson.

<sup>5</sup> U.S. Department of Justice, Civil Rights Division, Commonly Asked Questions About Service Animals in Places of Business, <http://www.usdoj.gov/crt/ada/qasrvc.htm> .

<sup>6</sup> Air Carrier Access Act, 49 U.S.C. app. 1374.

<sup>7</sup> 14 C.F.R. s. 382.55(a).

<sup>8</sup> 28 C.F.R. s. 36.104.

<sup>9</sup> 14 C.F.R. s. 382.55(a)(1).

<sup>10</sup> 42 U.S.C. s. 3604..

<sup>11</sup> 24 C.F.R. s. 100.204.

<sup>12</sup> On a somewhat related issue, the Housing and Urban-Rural Recovery Act also protects the right of people age 62 and older to keep pets, if they live in federally assisted housing for the elderly or handicapped. In the District of Columbia and in some states, such as New Jersey, Arizona, and Minnesota, state law protects the right of the elderly and disabled to pets in both public and private housing. See 12 U.S.C. s. 1701r-1.

<sup>13</sup> Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 327 (1990) (codified as amended in 42 U.S.C. ss. 12101-12213, 47 U.S.C. s. 225, and 47 U.S.C. s. 611).

<sup>14</sup> See Henderson.

<sup>15</sup> 28 C.F.R. s. 36.302(c).

<sup>16</sup> 28 C.F.R. s. 36.302(c)(2).

In 2005, the Florida Legislature significantly amended the law related to service animals in order to more closely mirror the provisions of the federal Americans with Disabilities Act of 1990. Specifically, the legislation amended definitions, changed the manner in which state and local governments and public accommodation facilities must provide access to service animals that accompany individuals with disabilities, and increased the penalty for discriminating against an individual with a disability when one interferes with admittance to, or enjoyment of, a public accommodation or an employer discriminates against a person with a disability.<sup>17</sup>

## **Service Animal Training**

While the earliest formal training of guide dogs in the United States dates back 65 years, widespread training has only occurred during the last three decades. There are no universally accepted methods for training or certifying assistance dogs. However, Assistance Dogs International has developed minimum training standards for its member organizations to follow. In addition to the training requirements, ADI has developed a Code of Standards and Ethics for its members and is creating minimum requirements for assistance dog partners and assistance dog trainers.

Likewise, service animal trainers are not "certified" and may be independent or affiliated with a service animal training school. In addition, individuals with disabilities sometimes train their own service animals. Although service animals are defined in the ADA, there are no criteria requiring identification or certification of a service animal. Further, public entities are prohibited from requiring certification of a service animal for the purpose of access.

The largest of service animal training organizations, CCI has five training centers across the United States, including one in Orlando, Florida. Several other groups operate training facilities either nationally or regionally. Policies vary by organization though many facilities prepare dogs to serve both mobility-impaired people and those with hearing impairments. Throughout the United States, nearly 70 organizations train service dogs, and approximately 45 providers train hearing dogs. Although there are no set training criteria, service dogs, guide dogs, and hearing dogs trained by assistance animal schools do go through a similar pattern of training, as described below:

- Puppies are given to volunteer "puppy raisers", who will care for them until they are old enough to begin advanced training. During this phase, most puppies will be taken to obedience training to learn basic obedience commands. At the same time, they are socialized with other dogs and people. Some puppy raisers take their puppies with them to school or work. The intent is to expose the dog to as many different experiences as possible so that it will be well-mannered and not easily distracted by new sights, sounds, and smells. Play time and quiet time are also a part of puppy training. The puppies typically sleep in the puppy raiser's bedroom. When in public, these puppies often wear capes identifying them as puppies in training. Some states allow puppies in training to have access to public accommodations including public transportation, but this varies by state.
- When puppies are 15-18 months of age they are returned to the training school to receive their assistance dog training. They are carefully evaluated to test their temperament and natural abilities. Dogs intended for service animal training are spayed or neutered. Dogs selected to continue in the training program spend additional time – typically 6-9 months – learning to perform specific tasks (e.g., guiding a person who is blind, responding to doorbells and telephones, fetching dropped items, pulling a wheelchair). Not every dog makes it through the training program, either because of temperament, health or physical problems.
- After a service dog completes its training program, it is matched with a human partner. Trainers attempt to match skills, physical size, and personality types of both the dog and human. Teams are then trained together for up to several weeks or longer if needed, so that they can bond and learn how to work with each other and develop proper public etiquette. During this phase the person also learns about caring for his or her dog, including veterinary care requirements, flea

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<sup>17</sup> Chapter 2005-63, Laws of Florida.

and tick control, grooming, and good nutrition. Once the trainer is satisfied the pair has sufficiently bonded and learned to work together, the team graduates. Some training organizations provide annual follow-up evaluations to ensure that no bad habits have developed and to correct any training deficiencies. At that time they also can retrain the dog or person if a person's functional abilities have changed.<sup>18,19</sup>

While many federal laws grant access to a disabled person with their service animal, these laws do not apply to service animals in training or animals being fostered until they are old enough to begin training. Some states have implemented laws to bridge this gap in coverage, in order to allow volunteers raising young animals for training or trainers of these animals full access to places of public accommodation for the purposes of socializing and training. Some of these laws enacted by states, however, have provisions limited to only one type of animal or to animals being raised or trained by "certified" centers or trainers.

## The Bill

The bill amends the definition of the term "service animal" to include any animal that is in the process of being trained or is being raised for the purpose of being trained at a future date to perform tasks for an individual with a disability. The bill also extends the same rights and privileges with respect to access to public facilities and the same liability for damage as is provided for an individual with a disability accompanied by a service animal to any volunteer who raises puppies for the purposes of future training as service animals if:

- The animal is held on a leash or is otherwise restrained and remains under the control of the volunteer training or raising such animal;
- The volunteer training or raising such animal has on his or her person, and available for inspection, credentials from the accredited school for which the animal is being raised; and
- The animal is wearing a collar, leash, or other appropriate apparel or device identifying the animal with the accredited school for which it is being raised.

## C. SECTION DIRECTORY:

**Section 1.** Amends s. 413.08, Florida Statutes, relating to rights of an individual with a disability, use of a service animal, discrimination in public employment or housing accommodations, and penalties.

**Section 2.** Provides an effective date of July 1, 2008.

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<sup>18</sup> Mathias, R.G., Assisting Passengers Traveling with Service Animals. Final Report. Center for Urban Transportation Research, College of Engineering, University of South Florida. January 1997.

<sup>19</sup> A similar process is used by Helping Hands when raising capuchin monkeys to be service animals: the monkeys are born at a closed colony at Southwick's Zoo in the Boston area; they are raised in volunteer foster homes until they move to the training center; they are educated at the Helping Hands Carvel Foundation Training Center in Boston where they are taught the essential helping tasks, then matched by personality and needs to a particular recipient, and finally prepared for tasks specific to the needs of the selected recipient. Monkeys are placed in the home of the recipient during a special placement week that includes eight days of set-up and on-site training by the placement team. Each monkey is supported post-placement by a placement specialist (including life-long health and behavioral support) and training for new tasks, when needed. Monkeys are provided with lifetime medical care overseen and paid for by Helping Hands, including all necessary care for chronic illnesses and geriatric care, by a specially selected network of veterinary and human doctors. Finally, the monkeys are given all necessary respite and retirement care, if needed. See

[www.monkeyhelpers.org](http://www.monkeyhelpers.org).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- Lines 25-34, of the bill define service animal as “**any animal** that is trained, in the process of being trained, or **being raised** for the purpose of being trained at a future date”, lines 35-41, of the bill refer to any person who **is raising an animal** for the purposes of future training, and line 42 of the bill refers to any volunteer **who raises puppies** for the purposes of future training. This would appear to give individuals raising puppies rights and privileges that are not extended to, for example, individuals raising young capuchin monkeys to be trained as service animals.
- The proposed new language in lines 35-56 of the bill appears to create some inconsistencies with current law in s. 413.08(8), Florida Statutes.

D. STATEMENT OF THE SPONSOR

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 4, 2008, the Committee on Healthy Families adopted a "strike-all" amendment by the bill sponsor that does the following:

- Amends the definition of the term “individual with a disability” to mirror the federal Americans with Disabilities Act.
- Amends the definition of the term “service animal” to include animals being trained or being raised for the purpose of being trained.
- Extends the same rights and privileges with respect to access to public facilities and the same liability for damage as is provided for an individual with a disability accompanied by a service animal to any volunteer who raises young animals for the purpose of future training as service animals.

HB 917 was reported favorable with 1 amendment.